

REMARKS

In this Response, claims 49-52 have been canceled. Accordingly, claims 33-48 are pending in this patent application. Favorable reconsideration of the application and allowance of all of the pending claims are respectfully requested in view of the following remarks.

Applicants have received numerous Office Actions from the U.S. Patent & Trademark Office. The Office Actions received for this application are set forth below.

8/30/04 – Non-Final Office Action
10/6/05 – Non-Final Office Action
4/17/06 – Non-Final Office Action
9/15/06 – Final Office Action (finality withdrawn)
3/5/07 – Final Office Action
6/5/07 - RCE filed
6/29/07 – Non-Final Office Action
12/5/07 – Non-Final Office Action
7/2/08 – Non-Final Office Action

Applicants respectfully note that the current Non-Final Office Action mailed July 2, 2008 is the third Non-Final Office Action received for this patent application since the RCE was filed on June 5, 2007. The MPEP explains that the shortest path to the final disposition of an application is by finding the best references on the first search and carefully applying them. See MPEP § 707.02. The MPEP further expects that a Supervisory Patent Examiner (SPE) personally check on the pendency of every application which is up for the third or subsequent Office action with a view to finally concluding its prosecution. Consequently, we request that a SPE personally review this case with an eye towards concluding its prosecution.

In the Office Action, claims 33-35, 43 and 49 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,245,130 to Wheaton (*Wheaton*). In the Office Action, the Examiner simply typed in the text from independent claim 33 without any reference at all to the disclosure or any teachings of *Wheaton*. Moreover, the Office Action fails to address any of the features recited in claims 34, 35, 43, and 49. Applicants request that the particular elements or components in *Wheaton* that are being alleged to anticipate the invention as recited in claims 33-35 and 43 be identified. Regarding claim 49, Applicants have canceled that claim, thereby

rendering the rejection of claim 49 moot. **Applicants respectfully request that the Examiner issue a new, complete Office Action to identify the teachings in *Wheaton* that are being relied upon to teach or suggest each of the features recited in these claims, but that were not addressed in the Office Action. Applicants also request that the rejection of claims 33-35 and 43 based on *Wheaton* be withdrawn.**

Claims 33-41 and 43-48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Appl. Pub. No. US 2001/0041496 to Smirnov (*Smirnov*) in view of U.S. Patent No. 5,460,039 to Cutler (*Cutler*). Regarding *Smirnov*, the Office Action repeated the text from the most recently received Office Action. Accordingly, as the disclosure of *Smirnov* remains deficient with respect to the rejection, Applicants repeat their remarks with respect to *Smirnov*. The Office Action states that “*Smirnov* does not disclose the humidity sensor having the claimed arrangement.” Applicants assert that *Smirnov* fails to teach or suggest other claim limitations in the pending claims as well. Consistent with the Remarks in the most recently filed Response, Applicants continue to disagree with the assertion in the Office Action that *Smirnov* discloses “a reference sensor (paragraph 0077, lines 3-5, providing a corresponding sensor connected to a processor; since the corresponding sensor is connected to a processor [which stores digital values] it is inherently capable of detecting an ambient value); the reference sensor inherently has an electrical characteristic in order to operate in conjunction with the processor.”

Referring to paragraph 0077 of *Smirnov*, the paragraph actually recites: “Furthermore, not only temperature can be used as a characteristic of environment but atmospheric pressure, humidity, illumination, level of acoustic noise, etc. To detect these environment characteristics, it is necessary to install corresponding sensors, connect them to controller 21 and process this data in the program of selecting a message for reproduction.” It is unclear how the Examiner is interpreting that disclosure of *Smirnov* as teaching or suggesting a reference sensor as stated in the Office Action and as recited in the claims. Applicants request that the Examiner provide a proper basis for the allegation in the Office Action that *Smirnov* discloses a reference sensor.

Interestingly, the Office Action states that the rejection of claims 33-41 and 43-48 is based on *Smirnov* in view of *Cutler*. However, the text in support of the rejection of claims 33-

41 and 43-48 references *Wheaton*, not *Cutler*. The alleged teachings of *Wheaton* in this section of the Office Action are simply the typed in language from claim 31. **Applicants request that the particular elements or components in *Wheaton* that are being alleged to be combined with *Smirnov* be identified. For at least the foregoing reasons, Applicants request that the rejection of claims 33-41 and 43-48 based on *Smirnov* in view of *Wheaton* be withdrawn.**

Claim 42 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to claim 33 above, and further in view of U.S. Patent No. 3,721,039 to Cook et al. (*Cook*). Applicants respectfully submit that *Cook* fails to remedy the deficiencies of *Wheaton* and *Smirnov* with respect to independent claim 33. Accordingly, Applicants request that the rejection of claim 42 in view of *Cook* be withdrawn.

Claims 49-52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Smirnov* in view of *Wheaton* and further in view of U.S. Patent Appl. Pub. No. US 2003/0162161 to Horschler (*Horschler*). By way of this Response, Applicants have canceled claims 49-52, thereby rendering the rejection of those claims moot.

For at least the foregoing reasons, Applicants respectfully submit that pending claims 33-48 are allowable. In addition, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to call the undersigned to discuss any unresolved issues and to expedite the disposition of the application.

Applicants hereby petition for any extension of time that may be required to maintain the pendency of this case, and any required fee for such extension is to be charged to Deposit Account No. 05-0460.

Respectfully submitted,

Date: October 2, 2008

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